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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,040	01/14/2002	Paul Brian Duerk	Duerk 2-2	3492

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EXAMINER

GAUTHIER, GERALD

ART UNIT PAPER NUMBER

2614

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/047,040

Applicant(s)

DUERK ET AL.

Examiner

Gerald Gauthier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program enables a telephony device and being embodied on a computer readable medium.

The claimed invention does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter).

The claimed invention is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception (e.g., because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result).

The claimed invention would impermissibly cover every substantial practical application of, and thereby preempt all use of, an abstract idea, natural phenomenon, or law of nature.

Claim(s) 21-23 are rejected for being dependent of a rejected claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim(s) 1-5, 7, 9, 11-13, 15-18 and 20-23** are rejected under 35 U.S.C. 102(b) as being anticipated by Amin et al (US 5,995,830).

Regarding **claim(s) 1, 7, 15, 20**, Amin discloses an apparatus that enables a telephony device of a party in communication with a mobile device to leave a voice mail for a mobile device user in the event that the communication with said mobile device is dropped during a call between said party and said mobile device user FIG. 1 and column 1, lines 10-12), the apparatus comprising:

voice message processing circuitry in communication with cell equipment of at least one cell of a wireless network, the voice message processing circuitry determining if the communication with said mobile device has been dropped during a call between said mobile device user and said party, wherein if the voice message processing circuitry determines that the communication with said mobile device user has been dropped during the call, the voice message processing circuitry automatically routes the call, in response to determining the communication has been dropped for said telephony device of said party, to a voice mail system

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associated with the dropped communication of said mobile device user so that said party can leave a voice mail message for said mobile device user to which a connection has been dropped from the call (column 3, lines 31-66 and column 5, lines 47-59).

Regarding **claim(s) 2 and 9**, Amin discloses an apparatus, wherein the voice message processing circuitry is comprised at a mobile switching center (MSC) of the wireless network, the MSC being in communication with said at least one cell of a wireless network (column 4, lines 59-67).

Regarding **claim(s) 3, 11, 16 and 21**, Amin discloses an apparatus, wherein, before the communication associated with the call is dropped, said party is communicating with the mobile device user via a landline telephony device that is in communication with the wireless network via a communication link between the MSC of the wireless network and a Public Switched Telephone Network (PSTN), and wherein when said connection for said mobile device user is dropped from the call, the MSC causes the telephony device of the party to be connected to said voice mail system associated with the dropped communication of said mobile device user so that said party can leave a voice message for said mobile device user (column 3, lines 31-66).

Regarding **claim(s) 4, 12, 17 and 22**, Amin discloses an apparatus, wherein, before the communication associated with the call is dropped, said party is communicating with said mobile device user over the wireless network via a mobile telephony device of said party that is in communication with said cell equipment of said at least one cell of the wireless network, and wherein when said connection for said mobile device user is dropped from the call, the MSC causes the party's mobile telephony device to be connected to the voice mail system associated with the dropped communication of said mobile device user so that said party can leave a voice message for said mobile device user (column 5, lines 47-59).

Regarding **claim(s) 5, 13, 18 and 23**, Amin discloses an apparatus, wherein when the communication associated with the call is dropped, the MSC causes said party to be notified that the call has been dropped and that said party is being connected to the voice mail system associated with said dropped communication of said mobile device user so that said party can leave a voice message for said mobile device user (column 5, lines 47-59).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **Claim(s) 6, 14 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of Amin (US 6,418,307 B1).

Regarding **claim(s) 6, 14 and 19**, Amin fails to disclose a signal to be transmitted to the cell equipment and notifies a message has been left.

However, Amin'307 teaches an apparatus, wherein when the communication associated with the call is dropped, and after said party leaves a voice message for said mobile device user, the voice message processing circuitry causes a signal to be transmitted to the cell equipment, which transmits a notification intended for said mobile device user to inform said mobile device user that said party has left a message for said mobile device user to which said connection has been dropped from the call (column 1, lines 46-61).

It would have been obvious to one skilled at the time the invention was made to modify Amin to have a signal to be transmitted to the cell equipment and notifies a message has been left as taught by Amin'307 such that the modified system of Amin would be able to support the system users a better and efficient method of notification to retrieve a voice message.

8. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of Akhteruzzaman et al. (US 6,584,316 B1).

Amin fails to disclose a second MSC and a second wireless network.

However, Akhteruzzaman teaches that two mobile telephone users communicate each other (66 on FIG. 1).

It would have been obvious to one skilled at the time the invention was made to modify Amin using the teaching of a second MSC and a second wireless network as

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taught by Akhteruzzaman such that the modified system of Amin would be able to support the system users to communicate with other mobile telephone users in a different cell of different MSC of different wireless network.

Response to Arguments

9. Applicant's arguments with respect to **claim(s) 1-9 and 11-23** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


GERALD GAUTHIER
PATENT EXAMINER

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Art Unit 2614

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